

Before the
FEDERAL COMMUNICATIONS COMMISSION **RECEIVED**
Washington, D.C. 20554

AUG 14 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

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MCI TELECOMMUNICATIONS
CORPORATION

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) RM 9108
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Billing and Collection Services Provided By
Local Exchange Carriers for Non-Subscribed)
Interexchange Services

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REPLY

BellSouth Corporation, on behalf of itself and its affiliate companies ("BellSouth") hereby submits its Reply to comments filed in the above referenced proceeding. On May 19, 1997, MCI Communications Corporation ("MCI") filed a petition urging the Commission to institute a rulemaking to adopt regulations to govern LEC requirements to bill on behalf of interexchange carriers for non-prescribed calls. Twenty five parties submitted comments to MCI's petition.

Several IXC's support MCI in its quest to have the LECs underwrite their nonsubscribed businesses. It comes as no surprise that the IXC's have jumped at this potential opportunity to obtain billing and collection ("B&C") services from LECs under the most favorable regulatory imposed terms to ensure that their nonsubscribed businesses remain profitable at the expense of LECs or until such a time when it will be economically convenient for them to directly bill their customers. None of MCI's supporters, however, have set forth sufficient reasons to justify the institution of a rulemaking proceeding to re-regulate a service which the Commission deregulated over ten years ago.

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Several commenters allude to “an instance” where a certain unnamed LEC has taken a take-it-or-leave-it-approach to negotiating billing and collection agreements.¹ They ask the Commission to institute an “investigation” into LEC billing practices.

These anecdotal recitations do not establish that unlawful or discriminatory billing practices are prevalent within the industry. Moreover, MCI’s petition and the supporting comments do not demonstrate a “problem” of general applicability such that a rulemaking to regulate a non-common carrier service is appropriate. If the IXCs believe that an individual LEC is engaging in unfair or discriminatory practices they should pursue the matter through a compliant or enforcement proceeding and not through a rulemaking.

Some small IXCs attempt to justify re-regulation of billing and collection as a preventative measure so that LECs do not withhold BNA for casual calling.² They argue that withholding BNA by the LECS could result in the rapid exit of competitors from the Interexchange market. These carriers request that the Commission issue a rule that would make available affordable BNA information for all services. Along similar lines, the clearinghouse commenters recommended that the Commission fashion a rule that mandates nondiscriminatory access to billing functions for both kinds of calls nonsubscribed services and presubscribed services.³ They argue that equal access to BNA and other information relating to B&C

¹ See e.g., Sprint at 3, DNSI at 2, HBS at 1, Frontier at 2.

² Consolidated at 5, DNSI at 8, AmericaTel Corp. at 2, PTI at 4.

³ HBS at 4.

functions is essential if clearinghouses and IXC's are to bill and collect for non-subscribed calls in an effective manner.⁴

BellSouth, as well as other LECs, currently provides BNA information to requesting carriers and clearinghouses for all services upon request and at reasonable costs through its interstate tariffs.⁵ Thus, the IXC's and clearinghouses are already provided, on a nondiscriminatory, ubiquitous basis the means by which they can bill their presubscribed and nonsubscribed customers. There is no reason for the Commission to re-regulate LEC billing and collection services so that IXC's will continue to be relieved of bearing the costs associated with billing nonsubscribed services. The fact that IXC's do not wish to bear these costs does not provide an adequate reason for a rulemaking, much less regulatory interference in a competitive, deregulated market.

AT&T argues that the Telecommunications Act has fundamentally altered the relationship between ILECs and the B&C customers. AT&T requests that in addition to imposing a nondiscrimination requirement upon the LECs for billing and collection of nonsubscribed services, the Commission impose a requirement that any increase in LECs' B&C rates currently in force must be shown to be directly attributable to costs to provide those services.

This argument and request are completely without merit. First, IXC's are capable of direct billing their customers. In fact, in many markets, AT&T has "taken back" from the LECs

⁴ HBS at 10.

⁵ See e.g., Southwestern Bell at 13-14, Ameritech at 5, SNET at 4.

its presubscribed billing and collection business and is directly billing those customers.⁶ Thus, LECs are losing billing and collection revenues. As MCI stated, nonsubscribed services are more costly, sporadic and expensive to bill. AT&T is not direct billing non-subscribed customers at this time because it has chosen not to bill for these services. It is more profitable for AT&T to have the LECs perform these services.⁷ It is clear that IXC's like AT&T are merely seeking to preserve the pecuniary rewards they generate at the expense of the LECs.⁸

Finally, Hold Billing Services ("HBS"), a clearinghouse, argues that ILECs are inappropriately imposing terms on clearinghouses and IXC's that state regulatory commissions have not yet found to be necessary. Specifically, HBS argues that BellSouth is improperly preventing HBS and its customers from utilizing contest boxes in states that do not prohibit such practices.⁹ HBS argues that LECs should not be permitted to use their power over the B&C processes to arbitrarily police billing and collection practices by clearinghouses.

On April 16, 1997, the Louisiana Public Service Commission ("LPSC") published a General Order prohibiting the association or attachment of the Letter of Agency, which is used

⁶ Many of these markets are states in which AT&T has immediate plans to enter into local telephone business. See, Southwestern Bell, Attachment 1.

⁷ See also SNET at 8-10.

⁸ AT&T cites to a Commission Order disallowing certain expenses that AT&T claimed in developing a billing and collection service. Although AT&T maintained that its billing and collection program was cheaper than using LEC billing and collection services, the Commission disallowed the costs of the AT&T billing and collection program in excess of the costs that would have been incurred if AT&T had continued to use LEC billing and collection services. This order is not supportive of AT&T's position. The Order was issued in a rate of return environment. Today AT&T operates in a nonregulatory, competitive environment where cost recovery is not a factor. AT&T at 6 citing AT&T Communications, Revision to Tariff F.C.C. Nos 1, 2, 11, 13 and 14, 3 FCC Rcd 6409 (1988).

⁹ HBS at 6.

to authorize the switching of an end users' long distance service, to any promotion involving contests, giveaways, trips, sweepstakes, games or similar devices.¹⁰ As a result, BellSouth implemented a policy region wide whereby it will not bill for any service employing this marketing technique. As the Commission is well aware, many of the slamming complaints it receives describe deceptive marketing practices in which consumers are induced to sign a LOA form document which does not clearly advise the consumer that they are authorizing a change in their PIC. Many consumers have complained that the LOA forms they signed were disguised as contest entry forms. Thus, the public ill-will generated by these marketing practices would extend to BellSouth if it voluntarily billed the services of carriers using these practices. BellSouth, like any other competitive entity, is entitled to take steps it believes is in its shareholders' best interests to preserve the public good will it has established.

The Commission deregulated billing and collection services over ten years ago. Its determination to rely on competition was correct at that time. The Commission found that billing and collection services were neither "communications services" nor "common carrier" services. Nothing in the present record warrants revisiting those conclusions. The

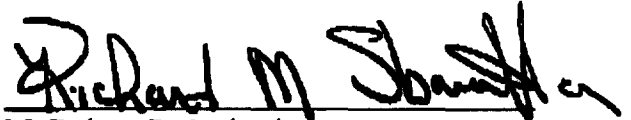
¹⁰ The State of Alabama recently enacted similar legislation. See, State of Alabama, Act Number 97-412, Bill Number S-133, signed May 14, 1997.

Commission's procompetitive deregulatory initiative was recently confirmed by the passage of the Telecommunications Act of 1996. Imposing regulations on LECs for billing and collection at this time would be an unwarranted step backward.

Respectfully submitted,

BELLSOUTH CORPORATION

By:

A handwritten signature in black ink, appearing to read "Richard M. Sbaratta", written over a horizontal line.

M. Robert Sutherland
Richard M. Sbaratta

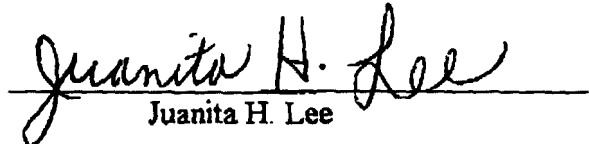
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CERTIFICATE OF SERVICE

I hereby certify that I have this 14th day of August, 1997 served all parties to this action with a copy of the foregoing **REPLY** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.



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